

AMENDED IN SENATE JUNE 26, 1996
AMENDED IN ASSEMBLY MAY 2, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2353

Introduced by Assembly Member Alpert
(Coauthors: Assembly Members Baca, Bowen, Brown,
Caldera, Goldsmith, Kuehl, and Mazzoni)
(Coauthors: Senators Costa and Solis)

February 16, 1996

~~An act to add Sections 6383.5 and 6383.7 to the Family Code,~~
~~and An act to add Section 3053.2 to the Penal Code, relating~~
to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 2353, as amended, Alpert. Domestic violence:
~~protective orders; parole conditions.~~

~~(1) Existing law provides for the service of domestic~~
~~violence protective orders by law enforcement officers.~~

~~This bill would require a law enforcement officer to make~~
~~a first attempt at service as soon as reasonably possible but no~~
~~later than 3 days, excluding weekends and holidays, after~~
~~receipt of a request by the petitioner of service of a domestic~~
~~violence protective order on the respondent, thereby~~
~~imposing a state-mandated local program by requiring a~~
~~higher level of service by local officials. The bill also would~~
~~authorize any law enforcement officer serving a domestic~~
~~violence protective order issued after notice and a hearing to~~

~~enforce any residence exclusion order at the time and in the manner stated in the order, as specified.~~

~~(2) Existing~~

Existing law authorizes the Board of Prison Terms to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go upon parole and provides that, upon granting parole to a prisoner, the board may impose on the parole any conditions that it deems proper.

This bill would require the ~~Board of Prison Terms~~ *parole authority* to impose specified conditions on the parole of a person released from prison for a domestic violence offense, including *participation in or* successful completion of a batterer's program, ~~a mandatory parole period equal to the length of the batterer's program,~~ and the issuance of protective orders. The bill would require the parole agent or officer to conduct an assessment of the parolee and to require the parolee to participate in additional sessions of the program under certain conditions. Because the bill would impose additional duties on local law enforcement officials, the bill would create a state-mandated local program.

~~(3) The~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 6383.5 is added to the Family~~
- 2 ~~Code, to read:~~

~~6383.5. Where the petitioner has requested service of an order issued under this part on the respondent by the appropriate law enforcement officer, a first attempt at service shall be made as soon as reasonably possible but no later than three days, excluding weekends and holidays, from receipt of the request.~~

~~SEC. 2. Section 6383.7 is added to the Family Code, to read:~~

~~6383.7. Any law enforcement officer serving an order issued under this part also may enforce any residence exclusion order that was issued after notice and a hearing, at the time and in the manner stated in the order. The officer may make certain that the party being excluded from the residence is able to pack sufficient personal belongings and may remain present until the excluded party has packed and left the residence.~~

~~SEC. 3.—~~

~~SECTION 1. Section 3053.2 is added to the Penal Code, to read:~~

~~3053.2. (a) The Board of Prison Terms parole authority shall impose all both of the following conditions on the parole of a person released from prison for an offense in which the victim is a person specified in Section 6211 of the Family Code:~~

~~(1) A minimum period of parole equal to the length of the batterer's program the parolee is required to complete pursuant to this section, without the possibility of early discharge.~~

~~(2) Successful completion of a batterer's program, as specified in subdivision (b), or if none is available,~~

~~(1) For persons who committed the offense prior to January 1, 1997, participation in a batterer's program, as specified in this section, for the entire period of parole. For persons who committed the offense after January 1, 1997, successful completion of a batterer's program, which shall be a condition of release from parole. If no batterer's program is available, another appropriate counseling program designated by the parole agent or officer, for a period of not less than one year, with weekly sessions of a minimum of two hours of classroom time. The~~

1 program director shall give periodic progress reports to
2 the parole agent or officer at least every three months.

3 ~~(3)~~

4 (2) The issuance of a protective order enjoining the
5 parolee from threatening, stalking, sexually abusing,
6 harassing, or taking further violent acts against the victim
7 and, if appropriate, issuance of any or all of the following:

8 (A) An order prohibiting the parolee from having
9 personal, telephonic, electronic, media, or written
10 contact with the victim.

11 (B) An order prohibiting the parolee from coming
12 within at least 100 yards of the victim or the victim's
13 residence or workplace.

14 (C) An order excluding the parolee from the victim's
15 residence.

16 (b) The parole agent or officer shall refer the parolee
17 only to a batterer's program that follows the standards
18 outlined in Section 1203.097 and immediately following
19 sections.

20 (c) The parolee shall file proof of enrollment in a
21 batterer's program with the parole agent or officer within
22 30 days ~~of conviction~~ *after the first meeting with his or her*
23 *parole agent officer, if he or she committed the offense*
24 *after January 1, 1997, or within 30 days of receiving notice*
25 *of this parole condition, if he or she committed the offense*
26 *prior to January 1, 1997.*

27 (d) The parole agent or officer shall conduct an initial
28 assessment of the parolee, which information shall be
29 provided to the batterer's program. The assessment shall
30 include, but not be limited to, all of the following:

31 (1) Social, economic, and family background.

32 (2) Education.

33 (3) Vocational achievements.

34 (4) Criminal history, prior incidents of violence, and
35 arrest reports.

36 (5) Medical history.

37 (6) Substance abuse history.

38 (7) Consultation with the probation officer.

39 (8) Verbal consultation with the victim, only if the
40 victim desires to participate.

1 (9) Assessment of the future probability of the parolee
2 committing murder.

3 (e) Upon request of the victim, the victim shall be
4 notified of the release of the parolee and the parolee's
5 location and parole agent or officer. If the victim requests
6 notification, he or she shall also be informed that
7 attendance in any program does not guarantee that an
8 abuser will not be violent.

9 (f) The parole agent or officer shall advise the parolee
10 that the failure to enroll in a specified program, as
11 directed, *may be considered a parole violation that would*
12 result in possible further incarceration.

13 (g) The director of the batterer's program shall
14 immediately report any violation of the terms of the
15 protective order issued pursuant to paragraph (3) of
16 subdivision (a), including any new acts of violence or
17 failure to comply with the program requirements, to the
18 parolee's parole agent or officer.

19 (h) Upon recommendation of the director of the
20 batterer's program, a parole agent or officer shall require
21 a parolee to participate in additional sessions throughout
22 the parole period, unless he or she finds that it is not in the
23 interests of justice to do so. In deciding whether the
24 parolee would benefit from more sessions, the parole
25 agent or officer shall consider whether any of the
26 following conditions exist:

27 (1) The parolee has been violence-free for a minimum
28 of six months.

29 (2) The parolee has cooperated and participated in the
30 batterer's program.

31 (3) The parolee demonstrates an understanding of,
32 and practices, positive conflict resolution skills.

33 (4) The parolee blames, degrades, or has committed
34 acts that dehumanize the victim or puts the victim's
35 safety at risk, including, but not limited to, molesting,
36 stalking, striking, attacking, threatening, sexually
37 assaulting, or battering the victim.

38 (5) The parolee demonstrates an understanding that
39 the use of coercion or violent behavior to maintain
40 dominance is unacceptable in an intimate relationship.

1 (6) The parolee has made threats to harm another
2 person in any manner.

3 (7) The parolee demonstrates acceptance of
4 responsibility for the abusive behavior perpetrated
5 against the victim.

6 (8) The parolee is assessed to have a probability of
7 committing murder in the future.

8 SEC. 4. Notwithstanding Section 17610 of the
9 Government Code, if the Commission on State Mandates
10 determines that this act contains costs mandated by the
11 state, reimbursement to local agencies and school
12 districts for those costs shall be made pursuant to Part 7
13 (commencing with Section 17500) of Division 4 of Title
14 2 of the Government Code. If the statewide cost of the
15 claim for reimbursement does not exceed one million
16 dollars (\$1,000,000), reimbursement shall be made from
17 the State Mandates Claims Fund.

18 Notwithstanding Section 17580 of the Government
19 Code, unless otherwise specified, the provisions of this act
20 shall become operative on the same date that the act
21 takes effect pursuant to the California Constitution.

